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8
9 STATE OF CALIFORNIA

10 CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

11
12 IN THE MATTER OF:

13
14 JORGE L. HOLGUIN DBA LETTY'S TIRES
15 TPID NO.: 1004521-01

16
17 RESPONDENT.

ADMINISTRATIVE COMPLAINT FOR
WASTE TIRE HAULER
ADMINISTRATIVE PENALTIES, PUBLIC
RESOURCES CODE SECTION 42960

AGENCY NO. 2009-011090-ADC

18
19 INTRODUCTION

20 This Complaint for Penalty is issued by the California Integrated Waste
21 Management Board (CIWMB) to JORGE L. HOLGUIN DBA LETTY'S TIRES
22 (RESPONDENT), a waste tire hauler whose mailing address is 10463 Telfair Avenue,
23 Pacoima, California 91331, seeking thirty-thousand thousand dollars (\$30,000.00).
24 Section 42962 of the Public Resources Code (PRC) authorizes the CIWMB to
25 administratively impose penalties for violations of any provision of PRC section 42960 et
26 seq. This complaint is so issued based on the following facts:

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STATEMENT OF FACTS

1. The CIWMB has authority to inspect, permit, regulate and conduct enforcement actions against Waste Tire Facilities (WTF) within the State of California under Public Resources Code (PRC) section 42800, et seq., and attendant regulations contained in Title 14 of the California Code of Regulations (CCR).

2. RESPONDENT has been a registered tire hauler since 1999.

3. On or before October 12, 2008, RESPONDENT hauled at least 1,500 waste tires to Sky View Terrace Mobile Home Park, located at 12089 Lopez Canyon Road, Sylmar, California 91342, an unauthorized waste tire destination facility pursuant to PRC section 42951(b), and stored them at this location. RESPONDENT failed to submit to the Board a California Uniform Waste and Used Tire Manifests (manifest or Comprehensive Trip Log) for this load or loads of waste tires pursuant to PRC section 42961.5 to this unauthorized site. These waste tires subsequently burned in the tire fire that occurred at this location on or about October 12, 2008.

4. On or between May 19, 2006 through September 7, 2007, RESPONDENT completed manifests stating he hauled 5 loads of waste tires. The manifests falsely state that the waste tires were hauled to his business address at 10463 Telfair Avenue, Pacoima, California 91331 in violation of PRC section 42961.5.

5. RESPONDENT has failed to manifest each load of waste tires as required by PRC section 42961.5. In 2006, RESPONDENT manifested 70,000 more deliveries of waste tires than pick-ups of waste tires. In 2007, RESPONDENT manifested at least 700,000 more pick-ups of waste tires than deliveries of waste tires.

6. RESPONDENT failed to accurately complete manifests pursuant to PRC section 42961.5 and its implementing regulations. The following table indicates manifests that contain inaccurate waste tire load amounts.

Load Date	PTE Pickup	PTE Delivery	CTL Form Number
2/14/2007	28000	0	3375216-C
3/15/2007	28900	0	3316396-A
8/28/2007	30500	0	3562879-A
10/2/2006	30800	30800	3411191-A
10/31/2007	57000	0	3563038-A
8/21/2007	111100	0	3562842-A
8/31/2007	111200	0	3562861-C
11/8/2007	120000	0	3563066-B
11/14/2007	134200	0	3563076-B
12/13/2007	140000	0	3563147-C
11/28/2007	152100	0	3563112-C

7. RESPONDENT failed to accurately complete manifests pursuant to PRC section 42961.5 and its implementing regulations in accordance with the following table:

CTL Receipt Number	Transaction Date	Receipt A, B, C	Error Type
3579788	08/09/2008	C	Missing TPID Number, Missing Load Type, Missing Load Amount
3579805	08/07/2008	C	Invalid TPID Number
3579833	08/08/2008	B	Missing Load Type
3579834	08/08/2008	A	Invalid TPID Number
3579840	08/23/2008	C	Invalid TPID Number
3579855	08/09/2008	C	Invalid TPID Number
3579857	08/07/2008	C	Invalid TPID Number
3579862	08/15/2008	A	Missing Load Amount

1	3579868	08/14/2008	C	Missing Load Type
2	3579872	08/13/2008	A, C	Missing Load Type, Invalid TPID Number
3	3579882	08/15/2008	A, C	Invalid TPID Numbers
4	3579889	09/05/2008	Header	Invalid License Plate Number
5	3579890	08/22/2008	B, C	Invalid TPID Number, Missing Load Type
6	3579893	08/26/2008	A	Missing Load Amount, Missing Load Type
7	3579897	09/02/2008	C	Missing Load Type
8	3579899	08/28/2008	A	Invalid TPID Number
9	3579906	08/24/2008	B	Invalid TPID Number
10	3579913	08/26/2008	A	Missing Load Amount
11	3579917	09/05/2008	C	Invalid TPID Number
12	3579924	09/16/2008	C	Invalid TPID Number
13	3579925	09/16/2008	B	Invalid TPID Number
14	3579926	09/09/2008	B	Neither Pick up or Delivery are Checked
15	3579930	09/10/2008	A, C	Invalid TPID Numbers
16	3579942	09/13/2008	A, B, C	Missing Load Types, Invalid TPID Number
17	3579950	09/11/2008	A, C	Missing Load Types
18	3579951	09/15/2008	B	Invalid TPID Number
19	3579955	09/04/2008	C	Invalid TPID Number
20	3579971	09/19/2008	A	Illegible Load Amount
21	3579982	09/23/2008	B, C	Missing Load Type, Invalid TPID Number
22	3579997	09/26/2008	A	Missing TPID Number
23	3579999	09/29/2008	B	Invalid TPID Number
24	3912309	10/09/2008	B, C	Missing Load Types
25	3912327	10/10/2008	Header, A	Missing Decal Number, Missing License Plate State and Number, Missing Driver's Signature Date, Invalid TPID Number
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27				
28				

1	9312330	10/04/2008	C	Invalid TPID Number
2	3912362	10/16/2008	Header, B	Missing Decal Number, Invalid License
3				Plate Number, Invalid TPID Number
4	3912368	10/29/2008	A	Invalid TPID Number
5	3912369	10/31/2008	Header ,	Illegible Decal Number, and Drivers
6			C	License Number, Invalid TPID Number
7	3912373	10/20/2008	B	Missing TPID Number
8	3912377	10/24/2008	B	Invalid TPID Number
9	3912382	10/31/2008	C	Invalid TPID Number
10	3912386	10/25/2008	B	Invalid TPID Number
11	3912431	11/19/2008	B	Invalid TPID Number
12	3912443	11/12/2008	C	Invalid TPID Number
13	3912449	11/13/2008	C	Invalid TPID Number
14	3912451	11/17/2008	B	Invalid TPID Number
15	3912453	11/13/2008	B	Invalid TPID Number
16	3912461	11/14/2008	B, C	Missing Load Types
17	3912479	11/04/2008	A	Invalid TPID Number
18	3912485	11/07/2008	A, C	Invalid TPID Number, Missing Load Type
19	3912488	11/01/2008	B	Missing Load Type
20	3912490	11/05/2008	C	Missing Load Type, Missing Hauler Phone
21				Number
22	3912496	10/29/2008	B	Missing Load Type
23	3912500	10/28/2008	B, C	Missing Load Type, Missing TPID Number

ALLEGATIONS OF SPECIFIC VIOLATIONS

8. CIWMB is requesting thirty thousand dollars (\$30,000.00) in waste tire hauler administrative penalties based on the above-mentioned facts and for the following violations:

- 1 a. RESPONDENT violated PRC section 42951(b) when, as stated in
2 paragraph 3 above, he transported waste or used tires to a facility
3 that is not permitted, excluded, exempted, or otherwise authorized
4 by the board, by statute, or by regulation to accept waste and used
5 tires, or to a facility that lawfully accepts waste or used tires for
6 reuse or disposal.
7
8 b. RESPONDENT violated PRC section 42834 when, as stated in
9 paragraph 3 above, he directed or transported waste tires to an
10 unpermitted minor waste tire facility, or accepted waste tires at an
11 unpermitted minor waste tire facility.
12 c. RESPONDENT violated PRC section 42961.5, as stated in
13 paragraphs 4, 5, 6, and 7 above, by failing to complete manifests
14 and/or failing to provide accurate information in manifests as
15 required by the board.

16 PENALTIES

17 9. The CIWMB's authority to assess administrative penalties against
18 RESPONDENTS as a waste tire hauler is set forth in PRC section 42962(c), which
19 states:

20 In addition to the civil penalty which may be imposed pursuant to
21 subdivision (a), the board may impose civil penalties administratively
22 in an amount not to exceed five thousand dollars (\$5,000) for each
23 violation of a separate provision or for continuing violations for each
24 day that violation continues, on any person who intentionally or
negligently violates any permit, rule, regulation, standard, or
requirement issued adopted pursuant to this chapter. . .

25 Under this section, RESPONDENTS are subject to a separate administrative
26 penalty of up to \$5,000.00, for each occasion upon which they have hauled waste tires
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1 without a valid Waste Tire Hauler Registration. Furthermore, 14 CCR section 18464
2 allows the imposition of penalties in accordance with that penalty table.

3 15. In setting an appropriate administrative penalty, the CIWMB has taken into
4 consideration the nature, extent and gravity of the violations, and the complete
5 disregard of applicable statute and regulation by RESPONDENTS. The CIWMB now
6 requests that administrative penalty liability be assessed against RESPONDENT in the
7 sum of thirty thousand dollars (\$30,000.00).

8
9 **RIGHT TO HEARING**

10 14. You are hereby notified that pursuant to the provisions of section 42960 of
11 the California Public Resources Code and Government Code section 11506, that you
12 are entitled to a hearing to refute the allegations against you contained in this
13 Administrative Complaint. **If you wish to have a hearing on this matter, you must**
14 **complete and return the enclosed REQUEST FOR HEARING to our Legal Office**
15 **within 15 days of receipt of this notice. Failure to complete and return the**
16 **REQUEST FOR HEARING within 15 days will be deemed a waiver of your rights to**
17 **a hearing.**

18 Pursuant to the above referenced Public Resources Code and Government Code
19 sections, discovery requests by any party must be made within thirty days after the
20 service of this Administrative Complaint.

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22 Dated this 22 day of January, 2009.

23 
24 Wendy Breckon
25 Senior Staff Counsel
26 California Integrated Waste
27 Management Board
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